

86-00014

# OFFICE OF THE ATTORNEY GENERAL



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Honorable Virgil Willett  
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Surface Mining Commission -  
Bonds - State Departments and  
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The term "Negotiable bonds of  
the state" found in Section  
9-16-89(b) refers to negotiable  
bonds in which the State of  
Alabama is the obligee.

Dear Mr. Willett:

We are in receipt of your request for an opinion dated  
September 12, 1985, which addresses the following question:

"Section 9-16-89 (b), Code of Ala. 1975,  
allows an operator to post a bond for  
surface mining reclamation using 'negotiable  
bonds of the United States government or  
the state'. We wish to know what constitutes  
a negotiable bond of the 'state'. Is a  
negotiable bond limited to a general  
obligation bond issued by the State of  
Alabama or would it include bonds issued  
by counties and municipalities or sub-  
divisions thereof such as industrial  
development board bonds or utility  
board bonds?"

We are of the opinion that the phrase "negotiable bonds  
of . . . the state" found in Section 9-16-89(b) refers to



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bonds in which the State of Alabama is the obligee, that is bonds which pledge the full faith and credit of the State of Alabama.

While we find no specific case on point in this state, "it may be stated as a general rule that insofar as the debt regulatory provisions of the Constitution are concerned, the state and its political subdivisions are regarded as separate entities rather than as a unit. Thus, it is held that bonds issued by a state officer or board payable solely out of the proceeds of political subdivisions pledged as security are not state bonds. They are not part of the state debt within the debt limitations and are not within the constitutional provisions requiring the consent of the electors of the state before state bonds or evidence of indebtedness pledging the faith of credit of the state or any of its revenues are issued." 64 Am.Jur.2d § 45.

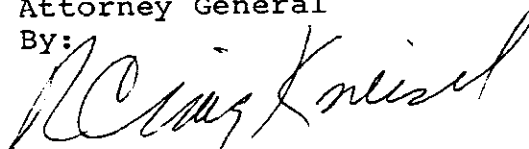
Based upon the foregoing, we are of the opinion that bonds issued by counties and municipalities or subdivisions thereof do not constitute "negotiable bonds of the state" as that phrase is used in Section 9-16-89(b) Code of Alabama 1975.

We hope that we have sufficiently answered your inquiry and if we may be of additional assistance, please do not hesitate to contact this office.

Sincerely,

CHARLES A. GRADDICK  
Attorney General

By:



R. CRAIG KNEISEL  
Assistant Attorney General

RCK/dn